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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,393	08/09/2001	Thomas D. Petite	081607-1180	5155

24504 7590 03/20/2003

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EXAMINER

WACHSMAN, HAL D

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,393

Applicant(s)

PETITE ET AL.

Examiner

Hal D Wachsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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6

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Hal D Wachsman  
Primary Examiner  
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1. The drawings have been approved by the Draftsperson's.
2. The declaration claims benefits under 35 U.S.C. 120 of U.S. application serial no. 09/790,150 which is incorrect because the parent case of the instant application is U.S. application serial no. 09/704,150. Appropriate correction is required.
3. The Abstract is objected to because it contains greater than 150 words. Appropriate correction is required.
4. One of the IDS's form 1449's cited U.S. Provisional Patent Application 60/224,065. However, this reference could not be considered because in the IDS art submitted a copy of this provisional application was not found.
5. The listing of references in the specification is not a proper information disclosure statement (see page 2 of the specification) 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
6. The Cross -Reference to Related Applications on page 1 of the specification indicates that the application is a CIP of 09/790,150 which is incorrect because the instant application is a CIP of U.S. application serial no. 09/704,150. Page 8, lines 17-18, refer to U.S. application serial no. 09/704,150 but does not provide the current status of the application. Page 8, lines 27-30, refers to a U.S. patent application but does not provide the U.S. application serial no., filing date and status. Once the U.S. application serial no. is provided the attorney's docket number can be deleted. Page 12,

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lines 4-6, of the specification refers to U.S. application serial no. 09/811,076 but does not provide the current status. Page 16, lines 7-10, of the specification refer to a U.S. patent application but does not provide the U.S. application serial number, the filing date and the status. Appropriate correction is required.

7. Claims 1-34 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 18, cites "the transmit signal" however the antecedent basis is "transmit message". This same type of problem also occurs in claim 3, line 2, claim 4, line 2, claim 9, line 21, claims 11 and 12, line 2, claim 17, line 17, claim 22, line 22. The last line of claim 6 ends with a semicolon when it appears a period should be there. This same type of problem also occurs in the last line of claim 14, the last line of claim 20, the last line of claim 24 and the last line of claim 31. Claim 8, lines 2-3, cite "the current packet" which it appears should be "the current data packet". This same type of problem also occurs in claim 8, lines 4 and 6, claim 16, lines 3, 4 and 6, claim 25, lines 2-4, claim 33, lines 3, 4 and 6. Claim 9, lines 5-6, cite "the communication device" which lacks clear antecedent basis. Claim 10, line 1, cites "stored in memory" however is this the same memory already cited in claim 9 ? Claims 11 and 12, line 1, cite "the wireless transmitter" however the antecedent basis is "wireless transceiver". In claim 19, line 1, it appears that the word "the" is missing between the words "receiving" and "data". Claim 22, line 2, cites "the electric meter" however there is no antecedent basis. Claim 26, line 3, cites "each of the plurality of electric meters" however was it actually "each of the electric meters" that was intended here ? Claim 26, line 4, cites "the electric meter"

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however the antecedent basis is plural. Claim 26, line 6, cites "each of the plurality of communication devices" but was it actually "each of the communication devices" that was intended here ? This same type of problem also occurs in claim 26, lines 13-14, claim 27, lines 2 and 3, claim 34, lines 6 and 13. Claim 26, line 7, cites "one of the plurality of electric meters" but was it actually "one of the electric meters" that was intended here ? This same type of problem also occurs in claim 30, line 2, claim 34, line 7. Claim 26, line 8, cites "the electricity consumption of the electric meter data" and it appears that this should be "the electricity consumption of the electric meter". This same type of problem also occurs in claim 34, lines 8-9. Claim 26, lines 10-11, cite "the unique identifier" which lacks antecedent basis. The preambles of claims 31-33 cite "The device..." which should be "The system...". Claim 34, line 11, cites "the unique identifier" however the antecedent basis is "unique address". The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-5, 9-13, 17-19, 22, 23, 26-30 and 34 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Cunningham et al. (6,124,806).

As per claim 1, Cunningham et al.'806 (Abstract, figure 49) disclose "a data interface configured....of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "memory comprising a unique identifier...the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "logic configured to receive the data....the transmit message comprising the unique identifier...the site controller may identify the electric meter...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose the wireless transceiver as described in the last 4 lines of the claim.



As per claim 2, Cunningham et al.'806 (figures 20, 33, col. 12 lines 44-47) disclose the features of this claim.

As per claim 3, Cunningham et al.'806 (figures 20, 22, 49, col. 6 lines 13-17) disclose the feature of this claim.

As per claim 4, Cunningham et al.'806 (col. 6 lines 13-18) disclose the feature of this claim.

As per claim 5, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the features of this claim.

As per claim 9, Cunningham et al.'806 (Abstract, figure 49) disclose "an electric meter configured...electricity consumption of a load associated with the electric meter" and "a data interface configured....of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "memory comprising a unique identifier...the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "logic configured to receive the data....the transmit message comprising the unique identifier...the site controller may identify the electric meter...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose the wireless transceiver as described in the last 4 lines of the claim.

As per claim 10, Cunningham et al.'806 (figures 20, 33, col. 12 lines 44-47) disclose the features of this claim.

As per claim 11, Cunningham et al.'806 (figures 20, 22, 49, col. 6 lines 13-17) disclose the feature of this claim.

As per claim 12, Cunningham et al.'806 (col. 6 lines 13-18) disclose the feature of this claim.

As per claim 13, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the features of this claim.

As per claim 17, Cunningham et al.'806 (Abstract, figure 49) disclose "a means for receiving data related... of an electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for storing a unique identifier... the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for receiving the data related to the electricity consumption of the electric meter... the transmit message comprising the unique identifier... such that the site controller... and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose the means for transmitting as described in the last 2 lines of the claim.

As per claim 18, Cunningham et al.'806 (Abstract, figure 49) disclose the feature of this claim.

As per claim 19, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 22, Cunningham et al.'806 (Abstract, figure 49) disclose "a means for measuring the electricity consumption of a load" and "a means for receiving data related... of the electric meter". Cunningham et al.'806 (Abstract, figures 21, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for storing a unique identifier... the

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electricity consumption of the load". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a means for receiving the data related to the electricity consumption of the electric meter...the transmit message comprising the unique identifier...such that the site controller...and notify the host computer of the transmit message". Cunningham et al.'806 (Abstract, figures 19, 25, 49, col. 6 lines 13-17) disclose wireless transceiver as described in the last 4 lines of the claim.

As per claim 23, Cunningham et al.'806 (figures 10, 11, 16, 17, col. 8 lines 26-42) disclose the feature of this claim.

As per claim 26, Cunningham et al.'806 (Abstract, figure 49) disclose "a plurality of electric meters....attached to the electric meter". Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a plurality of communication devices....and generate a transmit message...the transmit message comprising the unique identifier....electricity consumption of the electric meter" and the site controller as described in the last 5 lines of the claim.

As per claim 27, Cunningham et al.'806 (Abstract, figures 21, 49) disclose the features of this claim.

As per claim 28, Cunningham et al.'806 (see at least abstract) disclose the feature of this claim.

As per claims 29 and 30, Cunningham et al.'806 (see at least Abstract, figure 49) disclose the features of each of these claims.

As per claim 34, Cunningham et al.'806 (Abstract, figure 49) disclose "a plurality of means for measuring the electricity consumption of an attached load".  
Cunningham et al. '806 (Abstract, figures 20, 21, 30, 49, col. 13 lines 54-56, col. 14 lines 18-22) disclose "a plurality of communication means....and a means for generating a transmit message...the transmit message comprising the unique identifier....electricity consumption of the electric meter" and the means for receiving the transmit message as described in the last 4 lines of the claim.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 6, 7, 14, 15, 20, 24, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (6,124,806) in view of Russ et al. (6,061,604).

As per claims 6, 14, 20, 24 and 31, Russ et al. (figures 5, 6, col. 5 lines 22-34, 49-55) teach the features of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Russ et al. to the invention of Cunningham et al. '806 as specified above because in the monitoring of a network consisting of a variety of devices a means must be provided to distinguish messages being sent by one electric meter for example from another electric meter as well as to ensure that the sent message is properly routed to the correct destination.

As per claims 7, 15 and 32, Cunningham et al. '806 (figure 21, col. 14 lines 12-14, 24-26) disclose the features of each of these claims.

12. Claims 8, 16, 21, 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (6,124,806) in view of Russ et al. (6,061,604) as applied to claims 7, 15, 20, 24 and 32 above, and further in view of Cumeralto et al. (US 2002/0109607).

As per claims 8, 16, 21, 25 and 33, Cumeralto et al. (figures 4-9) teach the features of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Cumeralto et al. to the inventions of Cunningham et al. and Russ et al. as specified above because in network data transmission where a succession of messages may be sent, a means

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must be provided to distinguish one message from another, that is to know when one message ends and the next message begins.

13. The following references are cited as being art of general interest: Johnson et al. (5,553,094) which disclose a wide area communications network in which data from meters are being obtained, Tracy et al. (6,150,955) which disclose a base station controller obtaining remote metered data and Glorioso et al. (6,137,423) which disclose a system for communication between multiple remote meter interfaces which have ID's and a central office.


14. No claims are allowed.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Hal D Wachsmar  
Primary Examiner  
Art Unit 2857

HW  
March 18, 2003